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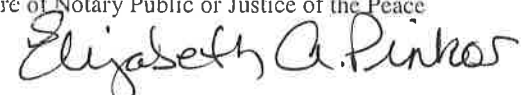

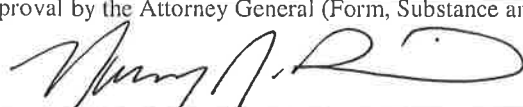
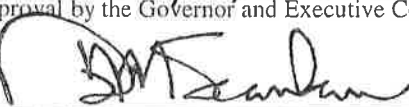
Statewide Indigent Defense Representation

FORM NUMBER P-37 (version 1/09)

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire Judicial Council		1.2 State Agency Address 25 Capitol Street, Room 424, Concord, N.H. 03301	
1.3 Contractor Name New Hampshire Public Defender		1.4 Contractor Address 10 Ferry Street, Suite 425, Concord, N.H. 03301	
1.5 Contractor Phone Number (603) 224-1236	1.6 Account Number 010-007-1094-102	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$39,669,671
1.9 Contracting Officer for State Agency Christopher M. Keating		1.10 State Agency Telephone Number (603) 271-3592	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Cathy Green, President, NHPD Board of Directors	
1.13 Acknowledgement: State of <u>N.H.</u> , County of <u>Merrimack</u> On <u>5-5-15</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace ELIZABETH A. PINKOS, Notary Public My Commission Expires December 3, 2019			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Nina C. Gardner, Chairperson, N.H. Judicial Council	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>5/6/2015</u>			
1.18 Approval by the Governor and Executive Council By:  DEPUTY SECRETARY OF STATE MAY 27 2015			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**EXHIBIT A
SERVICES**

1. The New Hampshire Public Defender Program, (NHPD), shall provide statewide legal representation at all stages of criminal proceedings for all criminal defendants, juveniles in delinquency cases, and respondents in involuntary commitment proceedings under RSA 135-E, qualifying as indigents. Consistent with the statutory scheme of appointment described in RSA 604-A:2 II, the Public Defender shall accept all indigent case appointments in the Circuit, Family, District, Superior, Probate, and the Supreme Courts, except in those cases in which the Rules of Professional Conduct would bar the representation, and except in those cases in which caseload limits as defined herein have been reached.

2. NHPD shall provide such other representation as is necessary and consistent with normal criminal defense, as required by the provisions of the United States and New Hampshire Constitutions, as well as related activities. For purposes of this provision, "related activities" includes but is not limited to the following:

A) Representation in matters arising under RSA 169-D which are factually and procedurally related to juvenile delinquency matters such that effective representation in the matter to which NHPD has been appointed requires participation;

B) Representation in non-criminal matters such as motor vehicle and other violations, Class B misdemeanors, proceedings brought under R.S.A. Chapter 173-B, Grand Jury proceedings, proceedings related to R.S.A. 265-A:30, and the like, when such representation is required to provide effective representation in a matter to which NHPD has been appointed;

C) Representation in proceedings under R.S.A. Chapters 135 and 135-C related to a finding of a lack of competency to stand trial in a case to which NHPD has been appointed. In such matters, NHPD may seek compensation from other agencies if such compensation is normally made for such representation when provided by non-NHPD counsel.

3. NHPD shall employ an Executive Director to supervise the Program. NHPD shall hire such other staff as is necessary to provide the services under this contract. It is understood and agreed that the staffing levels will be supported by the expenditure of funds under this Agreement to purchase and install necessary equipment such as books, office equipment, computer hardware and software, telephones, desks and chairs.

4. The present NHPD offices located in Manchester, Concord, Nashua, Laconia, Stratham, Dover, Keene, Littleton and Orford will continue to be staffed with full-time attorneys and part-time attorneys. Public Defender attorneys shall not be otherwise engaged in the practice of law. Contract attorneys, other than appellate attorneys, will be compensated on a caseload basis rather than on an hourly or per diem basis.

5. Subject to the normal turnover of staff and the availability of qualified replacements, NHPD shall employ not fewer than 116 full-time attorneys or the equivalent for the period of this agreement. Attorney staff not specifically designated for areas of representation by this Agreement shall be assigned responsibilities by NHPD based upon caseload growth. NHPD shall maintain specific minimum attorney staffing by employing no fewer than:

- A) 22 full-time attorneys serving Northern Hillsborough County.
- B) 19 full-time attorneys serving Southern Hillsborough County.
- C) 19 full-time attorneys serving Rockingham County.
- D) 15 full-time attorneys serving Merrimack County.
- E) 10 full-time attorneys serving in Cheshire and Sullivan Counties.
- F) 10 full-time attorneys serving Strafford County.
- G) 10 full-time attorneys serving Belknap and Carroll Counties.
- H) 3 full-time attorneys serving Coos County.
- I) 5 full-time attorneys serving Grafton County.
- J) 3 full-time attorneys providing appellate representation.

7. NHPD and the Judicial Council acknowledge that staffing levels contemplated under this agreement do not make provision for the capacity of NHPD to provide representation in trial-level, capital-case litigation.

8. NHPD shall have the option to sub-contract for attorney services as may be deemed necessary or appropriate to provide the representation specified under this Agreement. NHPD shall notify the Judicial Council when the Program sub-contracts for attorney services.

9. For purposes of determining the minimum staffing requirements set forth above, "full-time attorneys or equivalent" shall be computed as follows: Full-time attorney staff shall be those attorneys who are salaried and devote 100% of their time to NHPD representation; Part-time attorney staff shall be given equivalent value based upon the ratio of their caseload responsibilities compared to the workload of full-time salaried attorney staff; Contract attorneys shall be given equivalent value based upon the ratio of their contract workload responsibilities compared to the workload of full-time salaried attorney staff.

10. The caseloads of NHPD attorneys shall be consistent with the Rules of Professional Conduct and shall conform to the requirements of the plan adopted by NHPD and approved and monitored on a continuing basis by the Judicial Council. Said plan shall allocate cases between NHPD and other counsel, shall establish caseload limits for defender attorneys in accordance with professional standards under the Rules of Professional Conduct, and shall provide for appointment of other counsel only when maximum caseloads have been reached, when conflicts exist or when NHPD attorneys are otherwise unavailable.

11. NHPD shall operate and administer the Conflict Case Administrator Office. The Conflict Case Administrator Office shall distribute conflict cases to contract attorneys and assigned counsel. In the event that NHPD reduces or closes case intake from a particular court or courts, the Conflict Case Administrator shall assign all of the cases refused by the Public Defender Program. In the event that NHPD reduces or closes case intake from a particular court or courts, and the Conflict Case Administrator is called upon to assign all of the cases refused by the Public Defender Program, the Public Defender Program shall sufficiently augment the resources made available to the Conflict Case Administrator Office in order to accommodate the workload increase.

CASELOAD MANAGEMENT PLAN

Because persistently excessive caseloads threaten a lawyer's ability to provide competent representation to the accused, the New Hampshire legislature enacted RSA Chapter 604-B:6, requiring that a plan for caseload management be adopted by the New Hampshire Public Defender and approved by the Judicial Council. Accordingly, the parties hereto adopt the following Caseload Management Plan:

1. Representation

The Public Defender Program shall represent any eligible, indigent person in the Circuit, Family, District, Superior, Probate or Supreme Courts at all stages of criminal prosecutions, delinquency matters, and proceedings concerning the involuntary commitment of dangerous persons. The Public Defender Program is authorized to provide such other representation as is necessary and consistent with normal criminal, delinquency, and civil-commitment defense as required by the provisions of the United States and New Hampshire Constitutions. Representation shall be provided in accordance with this Plan.

2. Rules of Professional Conduct

The Public Defender Program shall not represent an individual when doing so would constitute a violation of the Rules of Professional Conduct.

3. "Case" Definition

A "case" for the purposes of this agreement is defined as a single charge; or, multiple related charges that occurred at the same time and place which are to be tried as one case regardless of the number of complaints; or, multiple charges that involve the same type of offense committed over a proximate period of time which are to be tried as one case regardless of the number of complaints.

4. Caseload Management

In order to ensure adequate representation for the accused, the Executive Director of the Public Defender Program shall monitor the caseloads of attorneys. If caseloads become excessive and the Executive Director of the Public Defender Program decides that closing off or reducing case intake is necessary, he or she will consult with the Executive Director of the Judicial Council prior to taking either of these steps. If and when a decision is made to close or reduce the intake of new cases temporarily, the Conflict Case Administrator shall assign alternate counsel pursuant to RSA 604-A:2 II.

5. Staff Attorney Caseloads

Full-time attorneys providing general felony, misdemeanor, and juvenile delinquency representation shall maintain a caseload of not more than 70 open and active cases. Lawyers may be assigned caseloads of specific case types for efficiency purposes, but when attorney caseloads are a mixture of felony, misdemeanor, juvenile, and other cases, there will be acknowledged maximums in each of these categories fixed as follows:

- | | |
|------------------------------------|---|
| (a) Felony Maximum - 35 cases | (c) Juvenile Delinquency Maximum - 20 cases |
| (b) Misdemeanor Maximum - 35 cases | (d) Other Cases - 15 cases |

The mix of cases totaling 70 for each attorney shall be determined by the Public Defender Program Executive Director based upon the experience level of the staff attorney and the concentration of case types in the geographic area served by the office in which the attorney works.

6. Homicide Representation

The Public Defender Program shall assign two attorneys to represent individuals charged with homicide offenses (first-degree murder, second-degree murder, and manslaughter cases). At least one lawyer shall be assigned from among the senior NHPD lawyers who possess homicide-case experience. Program attorneys carrying a mixed caseload will carry no more than two homicides at a time, and their caseloads shall be adjusted in accordance with the complexities and demands of the homicide case.

7. Capital Case Representation

The Public Defender Program will employ adequate staffing and support to provide continuing representation in the capital case of State of New Hampshire v. Michael Addison through the conclusion of the appellate process and subject to any New Hampshire Court's determination regarding the defendant's eligibility for court-appointed counsel. In the event that NHPD is called upon to provide trial-level representation in a new capital case, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4. When NHPD assigns lawyers to provide representation in a capital case, NHPD will do so in a manner consistent with the American Bar Association's Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases.

8. Juvenile Representation

The Public Defender shall assign attorneys to provide representation in juvenile delinquency proceedings who through selection and training meet the eligibility requirements established by the Judicial Council under the provisions of RSA 604-A:2-e.

9. Appellate Representation

The Appellate Defender Office shall be staffed by no fewer than three attorneys. Appellate Defender attorneys shall maintain a caseload that requires them to research, write, and argue not more than 24 appeals in any year.

10. Civil Commitment of Sexually Violent Predator Representation

The Public Defender Program shall assign two attorneys to represent any individual sought to be committed as a sexually violent predator pursuant to RSA 135-E. Attorneys carrying a mixed caseload will carry no more than two open and active civil commitment cases at a time. The caseload of any attorney handling a civil commitment case shall be adjusted in accordance with the complexities and demands of the civil commitment case.

11. Amendment and Review

No change shall be made in this Plan except upon approval of both parties. Either party may propose amendments to this Plan whenever said amendments appear to be appropriate and necessary. In addition, the Judicial Council shall review the operations of the Public Defender Program and shall also review quarterly statistics of the Public Defender Program to ensure that representation of indigents by the Public Defender Program is consistent with this Plan and legislative mandates.

EXHIBIT B**PAYMENT**

1. It is agreed that the sums advanced above shall be expended by NHPD for the sole purpose of paying the expenses of administration of NHPD, including payment of salaries of personnel assigned to it, social security and payroll taxes or benefits computed on payroll, travel, insurance, rent, telephone, office supplies and equipment. All expenses incurred shall be reasonably related to and necessary for the operation of NHPD.

2. Notwithstanding Paragraph 1 of this Exhibit, NHPD is authorized to make training presentations and materials available to attorneys not employed by NHPD who provide indigent defense services funded by the State of New Hampshire.

3. In consideration of the satisfactory operation of NHPD from the effective date of this contract until the end of Fiscal Year 2017, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2016:

\$9,770,855 for the period July 1, 2015 through December 31, 2015, and,
\$9,770,855 for the period January 1, 2016 through June 30, 2016.

5. In consideration of the satisfactory operation of NHPD from the effective date of this contract until the end of Fiscal Year 2017, the State of New Hampshire shall advance to NHPD in State Fiscal Year 2017:

\$10,063,980 for the period July 1, 2016 through December 31, 2016, and,
\$10,063,981 for the period January 1, 2017 through June 30, 2017.

6. The amount, if any, by which the total semi-annual payments specified above for State Fiscal Year 2016 exceed the amount of total expenses associated with operation of the NHPD for that year shall be utilized by NHPD to help to defray expenses associated with operation of NHPD incurred during State Fiscal Year 2017.

7. Within 80 days following conclusion of State Fiscal Year 2017, NHPD shall return to the State the amount, if any, by which the total of the payments specified above for both fiscal years exceeds the total expenses incurred for operation of NHPD for the two fiscal years.

EXHIBIT C
ADDITIONAL PROVISIONS

1. Conditional Nature of this Agreement

Paragraph 4 of Form P-37 is inapplicable and void.

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the continued appropriation of funds for the services provided herein, and in no event shall money promised to NHPD in this contract be transferred administratively or otherwise to the Contract Counsel or Assigned Counsel programs without the express written consent of the President of Public Defender Program's Board of Directors. If, however, it shall become necessary to reduce the monies paid to NHPD pursuant to this paragraph, there shall be a concomitant and pro rata reduction of the services which NHPD is obligated to perform hereunder.

2. Data/Access/Confidentiality

Paragraph 9 of Form P-37 is inapplicable and void.

The parties acknowledge that the Public Defender Program has obligations of confidentiality and loyalty to clients which cannot be abridged. NHPD must strictly prevent access by the State to information regarding all matters related to the representation of individual clients.

NHPD has reporting and access obligations to the State of New Hampshire as follows:

- A. The Public Defender Program Executive Director shall personally report to the Judicial Council on the operation of the Public Defender Program as requested.
- B. All records of NHPD regarding expenses of operation of NHPD shall be available for examination at any reasonable time to fiscal agents of the State or General Court, including the Judicial Council.
- C. NHPD will keep time records for statistical purposes and for assessment of any repayment ordered in accordance with RSA 604-A:9.
- D. NHPD shall furnish the Judicial Council such listing of personnel, job descriptions and salary levels as the Judicial Council shall from time to time request.
- E. Within thirty (30) days following the conclusion of each quarterly period during the term of this Agreement, written progress reports shall be prepared by NHPD. The reports shall briefly describe the cases accepted during the quarterly period, the progress of such cases, and the final disposition of all cases, in sufficient detail to disclose type and degree of offenses, whether or not contested, and the approximate time spent on such cases. The reports shall include a statement of administration costs detailing the expenses incurred during the quarterly period in connection with the operation of NHPD. One copy of each such report shall be submitted by NHPD to:

1. The New Hampshire Judicial Council,
2. The Governor,
3. Each member of the Executive Council,
4. The Attorney General, and,
5. Further copies shall be made available to such other offices, courts or agencies as the Judicial Council may from time to time specify.

F. Within sixty (60) days following the conclusion of State Fiscal Year 2016, NHPD shall provide the Judicial Council with a final statement of all expenses associated with operation of NHPD for that Fiscal Year.

G. Within sixty (60) days following the conclusion of State Fiscal Year 2017, NHPD shall provide the Judicial Council with a final statement of all expenses associated with operation of the NHPD for that Fiscal Year.

H. Within ninety (90) days of the end of State Fiscal Year 2016, NHPD shall also provide the Judicial Council with a copy of its annual audit by a certified public accountant.

I. Within ninety (90) days of the end of State Fiscal Year 2017, NHPD shall provide the Judicial Council with a copy of its annual audit by a certified public accountant.

J. Within ninety (90) days of the end of the 2016-2017 biennium, NHPD will provide an accounting of those items of equipment in which the State retains a reversionary interest. This accounting shall include a complete inventory list as well as a statement of the value of the assets listed.

3. Equipment

The State shall retain a reversionary interest in all equipment with a useful life of greater than two years, such as books, office equipment, telephones, desks and chairs, purchased by NHPD during the period of the Agreement with funds provided pursuant to this Agreement. The State shall not retain a reversionary interest in consumable supplies. In the event that NHPD ceases to operate, the Public Defender Program will return all items of said equipment within thirty (30) days of a request by the State.

4. Professional Liability Insurance

NHPD shall carry professional liability insurance covering all services to be performed pursuant to this Agreement, shall provide to the Judicial Council proof of such insurance upon the commencement of the term of this Agreement, and shall notify the Judicial Council immediately if such coverage is cancelled or expires for any reason.

5. Assignment/Delegation/Subcontracts

Paragraph 12 of Form P-37 is inapplicable and void.

NHPD shall have the option to sub-contract for attorney services as may be deemed necessary or appropriate to provide the representation specified under this Agreement. NHPD shall notify the Judicial Council when the Program sub-contracts for attorney services.

6. Capital Case Representation

This Agreement is prepared in contemplation that the Public Defender Program will employ adequate staffing and support to provide representation in the on-going appeal of the Michael Addison capital case. If the Addison appeal should result in a reversal, and the matter is remanded for re-sentencing or for a new trial, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4.

In the event that the Public Defender Program is called upon to provide representation to any other defendant charged with capital murder, the parties agree to amend the Price Limitation set forth in Block 1.8 of this Agreement, notwithstanding the provisions of Section 5.4.

7. General Liability Insurance

NHPD may substitute comprehensive general liability insurance in the amount of \$1,000,000 per occurrence and excess/umbrella liability insurance in the amount of \$3,000,000 per occurrence for the \$2,000,000 per occurrence identified in Paragraph 14.1.1 of the P-37.

State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that NEW HAMPSHIRE PUBLIC DEFENDER is a New Hampshire nonprofit corporation formed May 6, 1985. I further certify that it is in good standing as far as this office is concerned, having filed the return(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 12th day of March A.D. 2015

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner
Secretary of State

CERTIFICATE OF AUTHORITY

On April 5, 2015 the Board of Directors of the New Hampshire Public Defender, a private, nonprofit corporation organized under the laws of New Hampshire with principal offices at 10 Ferry Street, Suite 425 Street, Concord, NH 03301, voted to adopt the following resolutions:

RESOLVED: That the New Hampshire Public Defender enter into a contract with the State of New Hampshire and/or the New Hampshire Judicial Council, to operate a public defender program providing statewide indigent defense representation for the period July 1, 2015 through June 30, 2017.

RESOLVED: That Cathy Green, President of the New Hampshire Public Defender Board of Directors, is given full authority to execute any and all documents necessary to enter into this contract with the State of New Hampshire and/or the New Hampshire Judicial Council.

I certify that these resolutions, having been duly adopted by vote of the Board of Directors of the New Hampshire Public Defender, remain in full force and effect, and have not been revoked, rescinded, or modified.

I further certify that Cathy Green is the President of the New Hampshire Public Defender and is still qualified and serving in that capacity.

By:


Michael Iacopino, Secretary

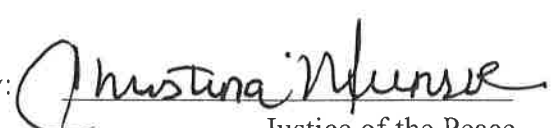
Date

May 5, 2015

State of New Hampshire
Merrimack County

This document was acknowledged before me on 5/5, 2015.

By:


, Justice of the Peace

Date

5/5/15



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Affinity 100 Matawan Road Matawan, NJ 07747	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A : Columbia Casualty Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
INSURED New Hampshire Public Defender 10 Ferry Street Suite 434 Concord, NH 03301	NAIC #

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL ISBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A <input type="checkbox"/>						WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Lawyers Professional			LAP 425595481	08/01/2014	08/01/2015	Limits: \$1,000,000/\$1,000,000 Deductible: \$1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Christopher M. Keating, Executive Director
State of New Hampshire, Judicial Council
25 Capital Street, Room 424
Concord, NH 03301-6312

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS:

AUTHORIZED REPRESENTATIVE

Joe Rivera

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ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/01/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services LLC 5 Bedford Farms Drive, Ste 200 Bedford, NH 03110 603 625-1100	CONTACT NAME: PHONE (A/C, No, Ext): 603 625-1100 FAX (A/C, No): E-MAIL ADDRESS:																					
INSURED NH Public Defender 10 Ferry Street Suite 425 Concord, NH 03301-4493	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr> <tr> <td>INSURER A :</td><td>Peerless Insurance Company</td><td>24198</td></tr> <tr> <td>INSURER B :</td><td></td><td></td></tr> <tr> <td>INSURER C :</td><td></td><td></td></tr> <tr> <td>INSURER D :</td><td></td><td></td></tr> <tr> <td>INSURER E :</td><td></td><td></td></tr> <tr> <td>INSURER F :</td><td></td><td></td></tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Peerless Insurance Company	24198	INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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INSURER B :																						
INSURER C :																						
INSURER D :																						
INSURER E :																						
INSURER F :																						

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			BOP9015132	07/01/2014	07/01/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BOP9015132	07/01/2014	07/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10000			CU9081175	07/01/2014	07/01/2015	EACH OCCURRENCE \$3,000,000 AGGREGATE \$3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WC9016635	07/01/2014	07/01/2015	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

This Evidence of Insurance is issued as a matter of information only and confers no rights upon the holder and does not amend, extend or alter the coverage afforded by policies designated on the Evidence.

CERTIFICATE HOLDER

CANCELLATION

ChristopherM. Keating, Executive
 Director State of New Hampshire
 Judicial Council 25 Capital
 Street Room 424
 Concord, NH 03301-6312

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

E. Arnold Jones

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NHPD BOARD OF DIRECTOR MEMBERSHIP
As of April 30, 2015

Cathy Green, Esq. **(President)**

Green & Utter

764 Chestnut Street

Manchester, NH 03104

Michael Iacopino, Esq. **(Secretary)** (NH Bar Appointee)

Brennan, Lenehan, Iacopino & Hickey

85 Brook Street

Manchester, NH 03104

Steven Gordon, Esq.

Shaheen & Gordon, P.A.

107 Storrs Street

P.O. Box 2703

Concord, NH 03302

Mark Howard, Esq.

Howard and Ruoff

831 Union Street

Manchester, NH 03104

Philip Waystack, Esq. (NH Bar Appointee)

Waystack Frizzell

P.O. Box 137

Colebrook, NH 03576

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Weibrecht Law Office

100 Central Avenue

Dover, NH 03820

Margaret O'Brien

Devine-Millimet

111 Amherst Street

Manchester, NH 03101

Risa Evans

University of New Hampshire School of Law

10 White Street

Concord, NH 03301

**NEW HAMPSHIRE BAR ASSOCIATION
BOARD OF GOVERNORS**

RESOLUTION

WHEREAS, the New Hampshire Constitution provides a right to counsel to Those facing a loss of their liberty; and,

WHEREAS, New Hampshire RSA Chapter 604-B establishes the plan for Appointment of counsel in indigent criminal cases and other circumstances; and,

WHEREAS, the above stature in subsection 604-B:4 authorizes the State, by And through the Judicial Council, (and with the approval of the Governor and Executive Council), to contract with an organization or group of attorneys to provide a Public Defender Program for the State of New Hampshire, so long as the organization or group meets with the approval of the New Hampshire Bar Association as a provider of indigent defense services; and,

WHEREAS, the Public Defender Program has requested such approval from the New Hampshire Bar Association; and,

WHEREAS, the Board of Governors of the New Hampshire Bar Association has considered this request of the Public Defender Program:

NOW THEREFORE, it is hereby resolved that the Board of Governors of the New Hampshire Bar Association gives its formal approval of the New Hampshire Public Defender as an organization created and operated to provide defense representation to indigent defendants in criminal cases, to indigent respondents against sexually violent predator petitions, to indigent defendants in capital-murder cases, and to indigent juveniles in delinquency proceedings, in the State of New Hampshire, for the period July 1, 2015 through June 30, 2017.

April 16, 2015

Date



Lisa Wellman-Ally, President
New Hampshire Bar Association